

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 16th July, 2025

FOR COMPLIANCE :

52. TP/1964/2024

P. C. : Shri. Siddharth Desai Ld. Advocate for the Petitioner

1. Ld. Advocate for the petitioner submits a praecipe dated 16.07.2025 to amend the petition as suggested in the recipe and draft annexed there to. However, as per the provisions of the Muslim laws, applicable to the deceased, it appears that the deceased (namely Fatima Valimohamad Kadiwal alias Fatima Valimohd. Kadiwal) died in the year 2019, as a spinster. Whereas her parents, namely Valimohmad and Mariyam Kadiwal, were predeceased on 03.07.2000 and 10.07.2017, respectively. Petitioner states that the grandparents of the deceased also predeceased the deceased. Deceased's Father had three brothers, namely Ibrahim Kadiwal (died in 1951), Dawood Kadiwa (died in 1951) and Ali Mohammad Kadiwal (died in 1955)

2. Uncle of the deceased, namely Ibrahim, died, leaving behind him his two sons, Abbas and Yusuf and one daughter, Kulsum. Ali Mohammad died, leaving behind his two daughters, namely Maryam Charoliya and Jaitunben Palsani and one son, namely Abdullah. Said Abdullah died in the year 2020, that is, he died after the death of the deceased, leaving behind his two sons, namely Amin and Hifzurrehman. His widow predeceased him. Another uncle of the deceased, namely Dawood, died in 1951, leaving behind his son, Noor (earlier petitioner), Ismail and two daughters, Ayesha Sakri and Rukiya Saleh. Noor had filed the petition; however, during the pendency of the petition, he died on 11.05.2022, leaving behind his widow (Jubeda) and nine children, whose names are mentioned in the Rider-I of the Table given in paragraph No. 4 of the petition.

3. Vide earlier praecipe dated 16.12.2024, petitioner sought an amendment to delete names of

the person, mentioned at Sr. No. 7 to 9, on ground that these could not be heirs of the deceased, as per the provisions of Muslim law mentioned in the book, namely Mulla Principle of Mohomedan Law by Sir Dinshaw Fardunji Mulla, updated 20th Edition. He appears to have relied upon the provisions mentioned on page number 74A (copy thereof is annexed to the praecipe, he claimed to be the descendants of the true grandfather of the deceased, as there are no legal heirs of the deceased. According to entry No.15, the descendant of the true grandfather, the paternal uncle's son, in the absence of the other heirs whose names are mentioned at serial numbers 1 to 14. Therefore, the paternal uncles of the deceased died, leaving their sons, whose names are referred to above, as the legal heirs, excluding the daughters of the paternal uncles of the deceased. Therefore, information of the legal heirs as per the earlier amendment appears to be not proper as per the provisions of the Muslim Personal Laws, applicable to the deceased. Accordingly, the petitioner was directed to carry out an amendment.

4. Perused today's praecipe as well as the amendment suggested by way of the draft. It appears to be not proper according to the provisions of the Muslim Succession and therefore, the petitioner is directed to mention and to amend the information about the legal heirs of the deceased, as per the provision which is relied upon by him and referred to herein-above, unless there is a contrary provision of the law.

5. Stand Order to 11.08.2025

16.07.2025

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